

BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

Joshua L. Sternberg, M.D.
Certificate # C-20239

Respondent.

D-5676

DECISION

The attached Stipulation is hereby adopted by the Division of Medical Quality of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on April 10, 1995.

IT IS SO ORDERED March 10, 1995.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



KAREN MCELLIOTT, Chair
PANEL B

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 FRED A. SLIMP II
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4 1515 K Street, Suite 511
P. O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-7861

6 Attorneys for Complainant
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10 BEFORE THE
DIVISION OF MEDICAL QUALITY
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation)	No. D-5676
Against:)	
)	STIPULATION IN
14 JOSHUA L. STERNBERG, M.D.)	SETTLEMENT; DECISION
15 1115 NE 176th Street)	<u>AND ORDER</u>
North Miami Beach, FL 33162)	
)	
16 Physician's and Surgeon's)	
17 Certificate No. C-20239)	
)	
18 Respondent.)	

19
20 Respondent, Joshua L. Sternberg, M.D., by and through
21 his counsel Stanley N. Lupkin and Litman, Asche, Lupkin, Gioiella
22 and Bassin, and the Division of Medical Quality, Medical Board of
23 California (hereinafter "Board"), through its counsel Deputy
24 Attorney General Fred A. Slimp II, do hereby enter into the
25 following stipulation:

26 1. Respondent Joshua L. Sternberg, M.D. (hereinafter
27 "respondent") was heretofore issued physician's and surgeon's

1 certificate number C-20239 under the laws of the State of
2 California. Said certificate expired on July 31, 1993, and is in
3 delinquent status.

4 2. On or about May 20, 1994, a First Supplemental
5 Accusation bearing number D-5676 was filed by Dixon Arnett,
6 Executive Director of the Board, in his official capacity as
7 such. Said Accusation alleges causes for disciplinary action
8 against respondent. Respondent was duly and properly served with
9 Accusation No. D-5676 by certified mail, and respondent filed a
10 timely Notice of Defense requesting a hearing on the charges
11 contained in the Accusation.

12 3. Respondent has retained as counsel Stanley N.
13 Lupkin and Litman, Asche, Lupkin, Gioiella and Bassin who have
14 made respondent fully aware of the charges and allegations of
15 violation of the California Business and Professions Code
16 contained in Accusation No. D-5676 and have also made him fully
17 aware of his rights under the Administrative Procedure Act of the
18 State of California, including his right to a formal hearing and
19 opportunity to defend against the charges contained in Accusation
20 No. 5676, and reconsideration and appeal of any adverse decision
21 that might be rendered following said hearing. Respondent
22 knowingly and intelligently waives his rights to a hearing,
23 reconsideration, appeal, and to any and all other rights which
24 may be accorded him pursuant to the Administrative Procedure Act
25 regarding the charges contained in Accusation No. D-5676.

26 4. Respondent understands that the charges and
27 allegations contained in Accusation No. D-5676 would, if proved,

1 constitute cause for imposing discipline upon respondent's
2 physician's and surgeon's certificate heretofore issued by the
3 Board.

4 5. Respondent understands that by signing this
5 stipulation, rather than contesting the charges and allegations
6 contained in Accusation No. D-5676, he is enabling the Board to
7 issue its order accepting the voluntary surrender of his
8 physician's and surgeon's certificate without further opportunity
9 to be heard or formal proceeding.

10 6. Respondent hereby voluntarily surrenders his
11 physician's and surgeon's certificate number C-20239 to the Board
12 for its formal acceptance and forever waives the right to
13 petition the Division of Medical Quality for reinstatement as a
14 physician and surgeon.

15 7. Upon acceptance of the stipulation by the Board,
16 respondent agrees to surrender and cause to be delivered to the
17 Board his license certification within thirty (30) days of the
18 effective date of the Board's order herein.

19 8. Respondent fully understands that when the Board
20 accepts the voluntary surrender of his physician's and surgeon's
21 certificate number C-20239, he will no longer be permitted to
22 practice medicine in the State of California. Respondent agrees
23 not to reapply for licensure as a physician and surgeon in
24 California for at least five years from the date of this order.

25 9. In consideration of the foregoing stipulations and
26 recitals, the Board upon acceptance of respondent's surrender

27 ///

1 herein, agrees to withdraw Accusation No. D-5676, currently
2 pending against respondent.

3 10. This stipulation for voluntary surrender of
4 respondent's physician's and surgeon's certificate is intended to
5 be an integrated writing memorializing the complete agreement of
6 the parties herein.

7 11. In the event the stipulation is rejected for any
8 reason by the Board, it will be of no force or effect for either
9 party.

10 I concur in the stipulation and order.

11 DATED: *Dec. 30, 1994*

DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON, Supervising Deputy
Attorney General

Fred A. Slimp II
FRED A. SLIMP II
Deputy Attorney General

Attorneys for Complainant

19 DATED: *8/10/94*

Stanley N. Lupkin
STANLEY N. LUPKIN, ESQ.
LITMAN, ASCHER, LUPKIN, GIOIELLA & BASSIN
Attorneys for Respondent

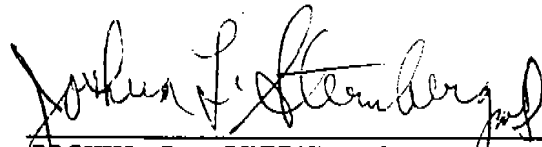
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1 I, Joshua L. Sternberg, M.D., have read the foregoing
2 stipulation and order. I understand and acknowledge that in
3 signing the stipulation, I am waiving and giving up my rights to
4 an administrative hearing on the charges and allegations in the
5 Accusation which is currently pending, and agree to be bound by
6 the terms and conditions of the stipulation and order.

7 I understand and acknowledge that by the terms of the
8 stipulation, not later than thirty (30) days after the acceptance
9 of this stipulation by the Division of Medical Quality, I am
10 required to surrender my physician's and surgeon's certificate.

11 I further understand that in surrendering my license, I
12 will lose all rights and privileges associated with being a
13 licensed physician and surgeon in the State of California, except
14 that I will retain the right to apply for a license again as a
15 new applicant. I understand that I have waived the right to
16 petition the Division of Medical Quality for reinstatement as a
17 physician and surgeon. I understand that in order to obtain a
18 license as a physician and surgeon, I will bear the burden of
19 proof on that issue in all subsequent proceedings before the
20 Division.

21 DATED: 8/9/94

22 
23 JOSHUA L. STERNBERG, M.D.
24 Respondent
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26
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1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
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5 Sacramento, California 94244-2550
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8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)	No.D-5676
Against:)	
13 Joshua L. Sternberg, M.D.)	<u>ACCUSATION</u>
14 1115 NE 176th Street)	
15 North Miami Beach, FL 33162)	
Physician's and Surgeon's)	
16 Certificate No. C-20239)	
17 Respondent.)	

18 Dixon Arnett, for causes for discipline, alleges:

19 1. Complainant Dixon Arnett makes and files this
20 accusation solely in his official capacity as Executive Director
21 of the Medical Board of California (hereinafter referred to as
22 the "Board") and not otherwise.

23 2. On April 12, 1971, the Medical Board of California
24 issued Physician's and Surgeon's Certificate Number C-20239 to
25 respondent Joshua L. Sternberg, M.D. (hereinafter "respondent").
26 The certificate expired July 31, 1993, and is in delinquent
27 status.

1 3. Under Business and Professions Code section 2234,
2 the Division of Medical Quality shall take action against any
3 licensee who is charged with unprofessional conduct.

4 4. Under Business and Professions Code section 2305,
5 the revocation, suspension, or other discipline by another state
6 of a license or certificate to practice medicine issued by that
7 state shall constitute unprofessional conduct against a licensee
8 in this state.

9 5. Respondent has subjected his Physician's and
10 Surgeon's Certificate to discipline under Business and
11 Professions Code sections 2234 and 2305 on the grounds of
12 unprofessional conduct in that on or about April 13, 1993, the
13 Florida Board of Medicine suspended respondent's medical license
14 for two (2) years, fined respondent fifteen thousand dollars
15 (\$15,000), reprimanded respondent, and placed respondent on
16 probation for three (3) years, with terms and conditions, after
17 the completion of respondent's suspension, for substandard
18 medical practice, inadequate record keeping, and financial
19 exploitation of patients. (See attached Exhibit "A".)

20 **WHEREFORE COMPLAINANT PRAYS** that a hearing be held and
21 that the Medical Board of California make its order:

22 1. Revoking or suspending Physician's and Surgeon's
23 Certificate Number C-20239 issued to Joshua L. Sternberg, M.D.;

24 2. Prohibiting Joshua L. Sternberg, M.D. from
25 supervising physician assistants; and

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3. Taking such other and further action as may be
deemed appropriate.

DATED: February 3, 1994



DIXON ARNETT
Executive Director
Medical Board of California
State of California

Complainant

EXHIBIT A

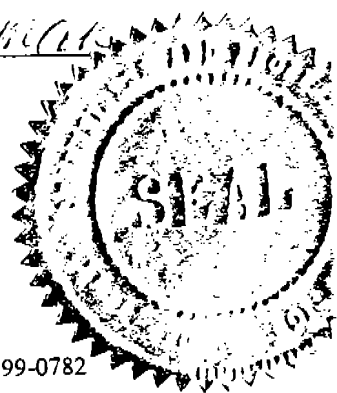
CERTIFICATION

I, Sarah L. Wachman, AGENCY CLERK, HEREBY certify the following to be true and correct as on file with the Florida Department of Business and Professional Regulation.

Attached is a true and correct copy of the Final Order issued in case number 0095873, including the Recommended Order, Petitioner's Response to Respondent's Exceptions to Recommended Order, Respondent's Exceptions to Recommended Order and Administrative Complaint, as maintained by the Department of Business and Professional Regulation. The attached is a regularly received and retained record of the Florida Department of Business and Professional Regulation v. Joshua L. Sternberg, M.D., and is received and retained in the ordinary course of business of the Florida Department of Business and Professional Regulation;

I further certify that the seal affixed to this document is the true seal for the Florida Department of Business and Professional Regulation.

Sarah L. Wachman
Agency Clerk



DIVISION OF REGULATION
AGENCY CLERK

NORTHWOOD CENTRE • 1940 NORTH MONROE STREET • TALLAHASSEE, FLORIDA 32399-0782

Telephone (904) 921-0342 • Fax (904) 487-9622

Personally appeared before me, the undersigned authority, Sarah L. Wachman, Department Agency Clerk, Department of Business and Professional Regulation, Division of Regulation, who being sworn, says that the fixed seal is the official seal of the Department of Business and Professional Regulation, Division of Regulation a state agency.

Sarah L. Wachman

Sarah L. Wachman
Agency Clerk

STATE OF FLORIDA
COUNTY OF LEON

Before me, personally appeared, Sarah L. Wachman, whose identity is personally known to me as Department Agency Clerk, and who, acknowledges that her signature appears above.

Sworn and Subscribed to, before me this 3rd day of September, 1993.

Kathryn L. MacNeis
Notary Public-State of Florida

KATHRYN L. MacNeis
Type or Print Name

Notary Public, State of Florida
My Commission Expires Sept. 7, 1995
Bonded thru Troy Fahn - Insurance Inc.

Department of Professional Regulation
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPUTY CLERK
CLERK _____
DATE 21-11-05

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

-vs-

JOSHUA L. STERNBERG, M.D.,

Respondent.

DPR CASE NUMBER: 0095873
DOAH CASE NUMBER: 91-6793
LICENSE NUMBER: ME 0013446

FINAL ORDER

This cause came before the Board of Medicine (Board) pursuant to Section 120.57(1)(b)10, Florida Statutes, on April 2, 1993, in Plantation, Florida, for the purpose of considering the Hearing Officer's Recommended Order, Respondent's Exceptions to the Recommended Order, and Petitioner's Response to Respondent's Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner, Department of Professional Regulation, was represented by Larry G. McPherson, Jr., Attorney at Law. Respondent was present and represented by Joseph Harrison, Attorney at Law.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

1. Respondent's Exception Number 1 is REJECTED based on the reasons stated by Petitioner in its written response.
2. Respondent's Exception Number 2 is REJECTED based on the reasons stated by Petitioner in its written response.

3. Respondent's Exception Number 3 is REJECTED based on the reasons stated by Petitioner in its written response.

4. Respondent's Exception Number 4 is REJECTED based on the reasons stated by Petitioner in its written response.

5. Respondent's Exception Number 5 is REJECTED based on the reasons stated by Petitioner in its written response.

6. Respondent's Exception Number 6 is REJECTED based on the reasons stated by Petitioner in its written response.

7. The first unnumbered paragraph under Conclusions of Law and Discussion in Respondent's Exceptions is REJECTED on the basis that it fails to set forth with reasonable specificity the specific finding or conclusion at issue and the basis for the exception, as required by Rule 21M-18.004, F.A.C.

8. The second unnumbered paragraph under Conclusions of Law and Discussion in Respondent's Exceptions is REJECTED, based on the reasons stated by Petitioner in its written response.

9. Respondent's Exception to Conclusion of Law 27 is REJECTED based on the reasons stated by Petitioner in its written response.

10. Respondent's Exception to Conclusion of Law 29 is REJECTED based on the reasons stated by Petitioner in its written response.

11. Respondent's Exception to Conclusion of Law 31 is REJECTED based on the reasons stated by Petitioner in its written response.

12. Respondent's Exception to Conclusion of Law 32 is REJECTED based on the reasons stated by Petitioner in its written and oral responses.

FINDINGS OF FACT

1. Findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein.
2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein.
3. There is competent substantial evidence to support the conclusions of law.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Hearing Officer be REJECTED based on the record evidence of Respondent's background and training and on the isolated nature of the charges.

WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. Respondent is hereby REPRIMANDED.
2. Respondent shall pay an administrative fine in the amount of \$15,000.00 to the Board of Medicine, Department of Professional Regulation, within 30 days of the date this Final Order is filed.
3. Respondent's license to practice medicine in the State of Florida is SUSPENDED for a period of 2 years and until he

appears before the Board and demonstrates his ability to practice medicine with skill and safety.

4. Upon reinstatement from suspension, Respondent's license to practice medicine in the State of Florida is placed on PROBATION for a period of 3 years, subject to terms and conditions to be set at that time. The probation shall, however, at least include a requirement for community service.

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 13 day of April, 1993.

BOARD OF MEDICINE



EDWARD A. DAUER, M.D.
VICE CHAIR

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Joshua L. Sternberg, M.D., Medical Service Center, 16751 N.E. 6th Avenue, North Miami Beach, Florida 33162 and Joseph Harrison, Attorney at Law, Slepín, Harrision & Feuer, 2500 North Military Trail, Suite 275, Boca Raton, Florida 33431, by U.S. Mail to Michael M. Parrish, Hearing Officer, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550; and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792 at or before 5:00 P.M., this _____ day of _____, 1993.

AprilOrders 93

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

PETITIONER,

vs.

CASE NO. 0095873

JOSHUA L. STERNBERG, M.D.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against JOSHUA L. STERNBERG, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0013446. Respondent's last known address is Medical Service Center, 16751 North East 6th Avenue, North Miami Beach, Florida 33162.

3. From on or about July 25, 1986, to on or about November, 1986, Respondent provided medical care and treatment to Patient #1.

4. On or about July 25, 1986, Patient #1 presented to Respondent's office after being involved in an automobile accident, complaining of pain in the left shoulder and the back of the head and neck, and a history of loss of consciousness.

5. Respondent's initial examination of Patient #1 revealed the following: Patient #1's left shoulder was swollen, warm to touch, and tender, with pain produced on motion; bilateral 3+ cervical paravertebral muscle spasms; and lateral rotation of the neck was ninety (90) degrees to the left and sixty (60) degrees to the right.

6. At the time of Respondent's initial evaluation of Patient #1, Respondent did not order x-rays of Patient #1's skull, cervical spine, or left shoulder. Respondent's plan included, but was not limited to, scheduling Patient #1 for bone and joint scans of the shoulders, cervical spine and head.

7. Respondent's initial evaluation of Patient #1 fails to include any essential historical features relative to Patient #1's loss of consciousness.

8. On or about July 29, 1986, at Respondent's office, Respondent took x-rays of Patient #1's shoulders, and performed diathermy on Patient #1's spine and left shoulder.

9. On or about July 30, 1986, at Respondent's office, Respondent performed bone and joint scans on Patient #1's cervical spine, right shoulder, and left shoulder.

10. Respondent's medical records for on or about July 30, 1986, reflect that Patient #1 was seen by a chiropractor, for

evaluation.

11. On or about July 31, 1986, at Respondent's office, Respondent performed a vascular flow on Patient #1. Patient #1 was introduced to the chiropractor and was told the chiropractor would be performing the physical therapy on Patient #1.

12. On or about August 6, 1986, August 11, 1986, and August 27, 1986, Respondent made changes in Patient #1's medication.

13. On or about September 3, 1986, at Respondent's office, Respondent performed a thermogram on Patient #1's occipital and spinal region, and made a determination of abnormal circulation.

14. On or about October 27, 1986, Patient #1 presented to another physician, an orthopaedic surgeon, whose examination showed Patient #1 to have a 1+ to 2+ laxity to valgus stress, to be tender about both medial and lateral joint lines, and tender on patellar motion. This physician recommended diagnostic arthroscopy for Patient #1.

15. On or about November 19, 1986, at Respondent's office, Respondent performed repeat bone and joint scans and color computer scans, with essentially the same results as the previous scans.

16. On or about November 19, 1986, Respondent's records for Patient record an improvement in Patient #1's condition, and a complaint by Patient #1 of left knee pain.

17. On or about November 19, 1986, Respondent discharged Patient #1 from Respondent's care, stating that Patient #1 had reached maximum medical improvement for problems related to Patient #1's automobile accident.

18. Respondent indicated that Patient #1's left knee pain was not related to Patient #1's automobile accident.

19. On or about April 29, 1987, the subsequent treating physician had Patient #1 undergo a left knee arthrogram, which revealed a partial detachment of the posterior horn of the medial meniscus with the inferior surface of the medial meniscus being frayed anterior to the partial detachment.

20. By letter dated June 11, 1987, the subsequent treating physician indicated that Patient #1's torn meniscus was secondary to the motor vehicle accident Patient #1 experienced on or about July 25, 1986.

21. Respondent's medical records for Patient #1 fail to document an adequate examination for Patient #1's potential neurological and musculoskeletal testing and findings or musculoskeletal assessments.

22. Respondent's overall documentation for Patient #1 fails to support a physical examination worthy of a comprehensive evaluation designation, for which Respondent billed Patient #1's insurance company.

23. Respondent delayed for (4) days before performing any diagnostic studies on Patient #1.

24. Respondent's bone scans of Patient #1, performed on or about July 30, 1986, and November 19, 1986, were inappropriate, inadequate and unnecessary in the evaluation of Patient #1's specific complaints and the sparse objective physical findings documented by Respondent.

25. Respondent's performance of the two (2) bone scans of Patient #1 separated what would normally be a single procedure into multiple procedure, thereby greatly expanding Respondent's charges.

26. Respondent performed carotid artery flow studies using ultrasound techniques on Patient #1 when no physical findings or historical features supported suspected trauma to the carotid artery system.

27. Respondent's records for Patient #1 fail to document any reasons for Respondent's referral of Patient #1 to a chiropractor.

COUNT ONE

28. Petitioner realleges incorporates paragraphs one (1) through twenty-seven (27), as if fully set forth herein this Count One.

29. Respondent failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as being acceptable under similar conditions and circumstances, in that Respondent failed to adequately assess Patient #1's condition by failing to order x-rays during Patient #1's initial visit and delayed four (4) days before performing any diagnostic studies on Patient #1; Respondent failed to perform neurological testing and musculoskeletal assessment despite Patient #1's potential neurological and musculoskeletal injury; Respondent performed unnecessary tests, including bone scans and carotid artery flow studies on Patient #1; and Respondent failed to diagnose Patient #1's left knee injury.

30. Based on the foregoing, Respondent violated Section

458.331(1)(t), Florida Statutes, by gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

COUNT TWO

31. Petitioner realleges and incorporates paragraphs one (1) through twenty-seven (27), and twenty-nine (29), as if fully set forth herein this Count Two.

32. Respondent failed to keep written medical records justifying the course of treatment of Patient #1, in that Respondent's records for Patient #1 fail to elaborate on the essential historical features related to Patient #1's loss of consciousness, fail to document an adequate examination relative to Patient #1's potential neurological and musculoskeletal injury, and fail to support a physician examination worthy of a comprehensive evaluation designation.

33. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, by failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

COUNT THREE

34. Petitioner realleges and incorporates paragraphs one (1) through twenty-seven (27), twenty-nine (29), and thirty-two (32),

as if fully set forth herein this Count Three.

35. Respondent exercised influence on Patient #1 in such a manner as to exploit Patient #1 for Respondent's financial gain, in that Respondent performed unnecessary tests; including, but not limited to, bone scans and carotid artery flow studies, by separating what would normally be a single procedure into multiple procedures, and by billing Patient #1's insurance company for a comprehensive evaluation when Respondent's medical records fail to support a physical examination worth the comprehensive evaluation designation.


36. Based on the foregoing, Respondent violated Section 458.331(1)(n), Florida Statutes, by exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the

Respondent on probation, and/or any other relief that the Board
deems appropriate.

SIGNED this 26 day of August, 1991.

George Stuart
Secretary


Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry McPherson, Jr.
Senior Attorney
Bar #788643
Department of Professional
Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0750

LAQP/BG/tb
PCP: August 14, 1991
Burt, Campbell, Basisht

FILED

Department of Professional Regulation
AGENCY CLERK


CLERK

DATE

8-27-91